

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 5922 OF 2005
IN
FIRST APPEAL (ST) NO. 26082 OF 2005

Office Notes, Office Memoranda
of Coram, appearances, Court's
Orders or directions and
Registrar's Orders

Court's or Judge's Orders

C.M. Lokesh for the applicants.

S.G. Thorat for the respondents.

CORAM: S.B. DESHMUKH, J.
DATE : SEPTEMBER 5, 2006.

P.C. :

1. Heard the learned counsel for the parties.

2. The learned counsel for the applicant, has invited my attention to the pleadings in paragraph nos.2, 3 and 4. According to the applicant, certified copies were received on December 11, 2003 and thereafter proposal was forwarded by the

petitioners office, Chikkodi to head office at Hubli, on October 20, 2004. Thereafter, after execution of the necessary procedure sanction / permission for filing of the appeal was granted by the Chairman and the Managing Director of the Corporation on April 6, 2005. Thereafter sometime was required for filing of the appeal after making necessary arrangement for court fees. In this process delay of 168 days has occurred in filing of the first appeal. The learned counsel for the respondent has invited my attention to reply affidavit filed on behalf of the respondents. It is pointed out that the certified copies were received by the applicant on December 11, 2003. However no process for filing of the appeal was initiated till October 20, 2004. There is no plausible explanation by the

applicant in this application. According to him, therefore, Civil Application seeking condonation of delay may be dismissed.

3. Undisputedly, the applicant is a Corporation, controlled by the State of Karnataka. Filing of the appeal in relation to Corporation is a subject matter of decision to be taken by the Officer/executive concerned. File requires to be moved from officer to officer. However it is pointed out by the learned counsel for the respondent, that initiation of such procedure itself is delayed of about 10 months.

4. Phrase "sufficient cause" is considered by this court as well as the apex court, time and again. The apex court, in the matter of Collector, Land Acquisition, AnantNag

vs. Mst. Katiji and Ors. reported in AIR 1987 SC 1353, laid down six guidelines. It is also apposit to refer to another judgment of the apex court in the matter of N.Balakrishnan vs. M.Krishnamurthy reported in AIR 1998 S.C. 3222. This judgment and earlier judgment of the apex court in the matter of Anant Nag (supra) is being referred to by the apex court in the matter of Ram Nath Sao v. Gobardhan Sao reported in AIR 2002 SC 1201. It is held by the apex court in paragraph 13 :-

"13. It must be remembered that in every case of delay there can be some lapse on the part of litigant concerned. That alone is not enough to turn down his plea and to shut the door against

him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory statement, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large

litigation expenses.

5. Thus the apex court has referred to lapse or laches on the part of such applicants seeking condonation of delay. However, the apex court, has held that such lapse, is not sufficient for shutting the doors to the litigant seeking to challenge the order impugned in the appeal or proceeding. In the present case, in my view, delay occurred can be condoned in the facts and circumstances of the case. Lapse on the part of the officer concerned, is not sufficient to

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penalise the corporation itself. Inconvenience caused to the respondents, however can be taken care of by imposing appropriate cost. I am satisfied that delay has occurred due to just and sufficient reason. Civil Application therefore is granted.

6. Delay of 168 days is condoned subject to payment of costs of Rs.3,000/- to be deposited in this court within a period of 10 weeks.

(JUDGE)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 5923 OF 2005

IN

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Office Notes, Office Memoranda
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Court's or Judge's Orders

C.M.Lokesh for the appellants.

S.G. Thorat for the respondents.

CORAM: S.B. DESHMUKH, J.
DATE : SEPTEMBER 5, 2006.

P.C. :

1. Heard the learned counsel
for the parties.

2. The learned counsel for the

applicant, submits, that apart from no-fault amount, an amount of Rs.50,000/- is deposited in this court under Section 173 of the Motor Vehicles Act, 1988. He seeks interim relief.

3. After hearing the learned counsel for the respondent, in my view, ad-interim relief in terms of prayer clause (a) can be granted in favour of the applicants subject to deposit entire decretal amount in tribunal within 10 weeks from today.

4. In the result, Civil Application is partly allowed in terms of prayer clause (a) subject to

depositing entire decreetal amount in the trial court within a period of 10 weeks. It is made clear that failure on the part of the applicant to deposit entire decreetal amount, stay granted shall stand vacated automatically.

(JUDGE)